

FIRST REGULAR SESSION

# HOUSE BILL NO. 325

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WALSH (Sponsor), WILDBERGER, KRATKY, SATER, SCHUPP, COLONA, CALLOWAY, CARTER, MEINERS, CURLS, CHAPPELLE-NADAL, McGHEE, FUNDERBURK, NASHEED, VOGT, STILL, NORR, LeBLANC, JONES (63), ATKINS, KANDER, SCHOEMEHL, JONES (117), SCHIEFFER, LAMPE, DIXON, KUESSNER, WRIGHT, KRAUS, BRINGER, YAEGER, KIRKTON, CORCORAN, STORCH, SPRENG, MEADOWS, SANDER, PACE, LOW, OXFORD, LeVOTA, WALTON GRAY AND MORRIS (Co-sponsors).

0786L.01H

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 455.010, 455.040, 455.501, and 455.516, RSMo, and to enact in lieu thereof four new sections relating to orders of protection.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 455.010, 455.040, 455.501, and 455.516, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 455.010, 455.040, 455.501,  
3 and 455.516, to read as follows:

455.010. As used in sections 455.010 to 455.085, unless the context clearly indicates  
2 otherwise, the following terms shall mean:

3 (1) "Abuse" includes but is not limited to the occurrence of any of the following acts,  
4 attempts or threats against a person who may be protected pursuant to sections 455.010 to  
5 455.085:

6 (a) "Assault", purposely or knowingly placing or attempting to place another in fear of  
7 physical harm;

8 (b) "Battery", purposely or knowingly causing physical harm to another with or without  
9 a deadly weapon;

10 (c) "Coercion", compelling another by force or threat of force to engage in conduct from  
11 which the latter has a right to abstain or to abstain from conduct in which the person has a right  
12 to engage;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 13 (d) "Harassment", engaging in a purposeful or knowing course of conduct involving  
14 more than one incident that alarms or causes distress to another adult and serves no legitimate  
15 purpose. The course of conduct must be such as would cause a reasonable adult to suffer  
16 substantial emotional distress and must actually cause substantial emotional distress to the  
17 petitioner. Such conduct might include, but is not limited to:
- 18 a. Following another about in a public place or places;
  - 19 b. Peering in the window or lingering outside the residence of another; but does not  
20 include constitutionally protected activity;
- 21 (e) "Sexual assault", causing or attempting to cause another to engage involuntarily in  
22 any sexual act by force, threat of force, or duress;
- 23 (f) "Unlawful imprisonment", holding, confining, detaining or abducting another person  
24 against that person's will;
- 25 (2) "Adult", any person [eighteen] **seventeen** years of age or older or otherwise  
26 emancipated;
- 27 (3) "Court", the circuit or associate circuit judge or a family court commissioner;
- 28 (4) "Ex parte order of protection", an order of protection issued by the court before the  
29 respondent has received notice of the petition or an opportunity to be heard on it;
- 30 (5) "Family" or "household member", spouses, former spouses, adults related by blood  
31 or marriage, adults who are presently residing together or have resided together in the past, an  
32 adult who is or has been in a continuing social relationship of a romantic or intimate nature with  
33 the victim, and adults who have a child in common regardless of whether they have been married  
34 or have resided together at any time;
- 35 (6) "Full order of protection", an order of protection issued after a hearing on the record  
36 where the respondent has received notice of the proceedings and has had an opportunity to be  
37 heard;
- 38 (7) "Order of protection", either an ex parte order of protection or a full order of  
39 protection;
- 40 (8) "Petitioner", a family or household member or an adult who has been the victim of  
41 stalking, who has filed a verified petition pursuant to the provisions of section 455.020;
- 42 (9) "Respondent", the family or household member or adult alleged to have committed  
43 an act of stalking, against whom a verified petition has been filed;
- 44 (10) "Stalking" is when an adult purposely and repeatedly engages in an unwanted course  
45 of conduct that causes alarm to another person when it is reasonable in that person's situation to  
46 have been alarmed by the conduct. As used in this subdivision:

47 (a) "Course of conduct" means a pattern of conduct composed of repeated acts over a  
48 period of time, however short, that serves no legitimate purpose. Such conduct may include, but  
49 is not limited to, following the other person or unwanted communication or unwanted contact;

50 (b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

51 (c) "Alarm" means to cause fear of danger of physical harm.

455.040. 1. Not later than fifteen days after the filing of a petition pursuant to sections  
2 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that  
3 a continuance should be granted. At the hearing, if the petitioner has proved the allegation of  
4 abuse or stalking by a preponderance of the evidence, the court shall issue a full order of  
5 protection for a period of time the court deems appropriate, except that the protective order shall  
6 be valid for at least one hundred eighty days and not more than [one year] **three years**. Upon  
7 motion by the petitioner, and after a hearing by the court, the full order of protection may be  
8 renewed for a period of time the court deems appropriate, except that the protective order shall  
9 be valid for at least one hundred eighty days and not more than [one year] **three years** from the  
10 expiration date of the originally issued full order of protection. If for good cause a hearing  
11 cannot be held on the motion to renew the full order of protection prior to the expiration date of  
12 the originally issued full order of protection, an ex parte order of protection may be issued until  
13 a hearing is held on the motion. Upon motion by the petitioner, and after a hearing by the court,  
14 the second full order of protection may be renewed for an additional period of time the court  
15 deems appropriate, except that the protective order shall be valid for at least one hundred eighty  
16 days and not more than [one year] **three years**. For purposes of this subsection, a finding by the  
17 court of a subsequent act of abuse is not required for a renewal order of protection.

18 2. The court shall cause a copy of the petition and notice of the date set for the hearing  
19 on such petition and any ex parte order of protection to be served upon the respondent as  
20 provided by law or by any sheriff or police officer at least three days prior to such hearing. Such  
21 notice shall be served at the earliest time, and service of such notice shall take priority over  
22 service in other actions, except those of a similar emergency nature. The court shall cause a copy  
23 of any full order of protection to be served upon or mailed by certified mail to the respondent at  
24 the respondent's last known address. Failure to serve or mail a copy of the full order of  
25 protection to the respondent shall not affect the validity or enforceability of a full order of  
26 protection.

27 3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085  
28 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where  
29 the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law  
30 enforcement agency responsible for maintaining the Missouri uniform law enforcement system  
31 or any other comparable law enforcement system the same day the order is granted. The law

32 enforcement agency responsible for maintaining MULES shall enter information contained in  
33 the order for purposes of verification within twenty-four hours from the time the order is granted.  
34 A notice of expiration or of termination of any order of protection shall be issued to the local law  
35 enforcement agency and to the law enforcement agency responsible for maintaining MULES or  
36 any other comparable law enforcement system. The law enforcement agency responsible for  
37 maintaining the applicable law enforcement system shall enter such information in the system.  
38 The information contained in an order of protection may be entered in the Missouri uniform law  
39 enforcement system or comparable law enforcement system using a direct automated data  
40 transfer from the court automated system to the law enforcement system.

455.501. As used in sections 455.500 to 455.538, the following terms mean:

- 2 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child  
3 other than by accidental means by an adult household member, or stalking of a child. Discipline  
4 including spanking, administered in a reasonable manner shall not be construed to be abuse;
- 5 (2) "Adult household member", any person [eighteen] **seventeen** years of age or older  
6 or an emancipated child who resides with the child in the same dwelling unit;
- 7 (3) "Child", any person under [eighteen] **seventeen** years of age;
- 8 (4) "Court", the circuit or associate circuit judge or a family court commissioner;
- 9 (5) "Ex parte order of protection", an order of protection issued by the court before the  
10 respondent has received notice of the petition or an opportunity to be heard on it;
- 11 (6) "Full order of protection", an order of protection issued after a hearing on the record  
12 where the respondent has received notice of the proceedings and has had an opportunity to be  
13 heard;
- 14 (7) "Order of protection", either an ex parte order of protection or a full order of  
15 protection;
- 16 (8) "Petitioner", a person authorized to file a verified petition under the provisions of  
17 sections 455.503 and 455.505;
- 18 (9) "Respondent", the adult household member, emancipated child or person stalking the  
19 child against whom a verified petition has been filed;
- 20 (10) "Stalking", when an adult purposely and repeatedly engages in an unwanted course  
21 of conduct with regard to a child that causes another adult to believe that a child would suffer  
22 alarm by the conduct. As used in this subdivision:
  - 23 (a) "Course of conduct" means a pattern of conduct composed of repeated acts over a  
24 period of time, however short, that serves no legitimate purpose. Such conduct may include, but  
25 is not limited to, following the other person or unwanted communication or contact;
  - 26 (b) "Repeated" means two or more incidents evidencing a continuity of purpose; and
  - 27 (c) "Alarm" means to cause fear of danger of physical harm;

28 (11) "Victim", a child who is alleged to have been abused by an adult household  
29 member.

455.516. 1. Not later than fifteen days after the filing of a petition under sections  
2 455.500 to 455.538, a hearing shall be held unless the court deems, for good cause shown, that  
3 a continuance should be granted. At the hearing, which may be an open or a closed hearing at  
4 the discretion of the court, whichever is in the best interest of the child, if the petitioner has  
5 proved the allegation of abuse of a child by a preponderance of the evidence, the court may issue  
6 a full order of protection for at least one hundred eighty days and not more than [one year] **three**  
7 **years**. The court may allow as evidence any in camera videotape made of the testimony of the  
8 child pursuant to section 491.699, RSMo. The provisions of section 491.075, RSMo, relating  
9 to admissibility of statements of a child under the age of [twelve] **fourteen** shall apply to any  
10 hearing under the provisions of sections 455.500 to 455.538. Upon motion by either party, the  
11 guardian ad litem or the court-appointed special advocate, and after a hearing by the court, the  
12 full order of protection may be renewed for a period of time the court deems appropriate, except  
13 that the protective order shall be valid for at least one hundred eighty days and not more than  
14 [one year] **three years** from the expiration date of the originally issued full order of protection.  
15 If for good cause a hearing cannot be held on the motion to renew the full order of protection  
16 prior to the expiration date of the originally issued full order of protection, an ex parte order of  
17 protection may be issued until a hearing is held on the motion. Upon motion by either party, the  
18 guardian ad litem or the court appointed special advocate, and after a hearing by the court, the  
19 second full order of protection may be renewed for an additional period of time the court deems  
20 appropriate, except that the protective order shall be valid for at least one hundred eighty days  
21 and not more than [one year] **three years** from the expiration date of the second full order of  
22 protection. If for good cause a hearing cannot be held on the motion to renew the second full  
23 order of protection prior to the expiration date of the second order, an ex parte order of protection  
24 may be issued until a hearing is held on the motion. For purposes of this subsection, a finding  
25 by the court of a subsequent act of abuse is not required for a renewal order of protection.

26 2. The court shall cause a copy of the petition and notice of the date set for the hearing  
27 on such petition and any ex parte order of protection to be personally served upon the respondent  
28 by personal process server as provided by law or by any sheriff or police officer at least three  
29 days prior to such hearing. Such shall be served at the earliest time, and service of such shall  
30 take priority over service in other actions, except those of a similar emergency nature. The court  
31 shall cause a copy of any full order of protection to be served upon or mailed by certified mail  
32 to the respondent at the respondent's last known address. Failure to serve or mail a copy of the  
33 full order of protection to the respondent shall not affect the validity or enforceability of a full  
34 order of protection.

35           3. A copy of any order of protection granted under sections 455.500 to 455.538 shall be  
36 issued to the petitioner and to the local law enforcement agency in the jurisdiction where the  
37 petitioner resides. The clerk shall also issue a copy of any order of protection to the local law  
38 enforcement agency responsible for maintaining the Missouri uniform law enforcement system  
39 (MULES) or any other comparable law enforcement system the same day the order is granted.  
40 The law enforcement agency responsible for maintaining MULES shall enter information  
41 contained in the order for purposes of verification within twenty-four hours from the time the  
42 order is granted. A notice of expiration or of termination of any order of protection shall be  
43 issued to such local law enforcement agency and to the law enforcement agency responsible for  
44 maintaining MULES or any other comparable law enforcement system. The law enforcement  
45 agency responsible for maintaining the applicable law enforcement system shall enter such  
46 information in the system. The information contained in an order of protection may be entered  
47 in the Missouri uniform law enforcement system or comparable law enforcement system using  
48 a direct automated data transfer from the court automated system to the law enforcement system.  
49           4. A copy of the petition and notice of the date set for the hearing on such petition and  
50 any order of protection granted pursuant to sections 455.500 to 455.538 shall be issued to the  
51 juvenile office in the jurisdiction where the petitioner resides. A notice of expiration or of  
52 termination of any order of protection shall be issued to such juvenile office.

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